

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Case No. 2014-000225 (SCWCC No. 1023410)

Michael W. Dority, Claimant, Appellant,

v.

CTR of the Carolinas, Inc., et. al., Employer, and
Twin City Fire Insurance Company, Carrier, Respondents.

RECEIVED

FEB 23 2015

SC Court of Appeals

RETURN TO MOTION AND MEMORANDUM FOR EXPEDITED ORAL ARGUMENT

Jason A. Griggs, Esquire
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607
(864) 527-3288
Attorney for Respondents

Pursuant to Rule 240, SCACR, Respondents CTR of the Carolinas, Inc., et. al. and Twin City Fire Insurance Company (collectively "Respondents"), by and through their undersigned attorney, hereby respond to Appellant's Motion for Expedited Oral Argument. Respondents would respectfully show:

1) Appellant filed a claim for workers' compensation benefits against Respondents, alleging a pulmonary occupational disease.

2) Appellant alleges in his Motion that he is permanently and totally disabled as a result of his condition, and that he has not been able to earn wages since September 17, 2010. Respondents do not dispute that Appellant has not worked since 2010. However, this is a denied case, and the Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission have adjudged this case not compensable. From a workers' compensation law standpoint, Respondents deny that Appellant is permanently and totally disabled as a result of any alleged work-related injury or condition, and he has not been adjudged permanently and totally disabled from a workers' compensation law standpoint.

3) Respondents object to expedited oral argument in this case, as the Court of Appeals has indicated that this matter may be heard in May of 2015.

4) Additionally, Respondents object to many of the statements contained in Appellant's Motion and Affidavit. Specifically, Respondents object paragraphs 3 through 8 in Appellant's Motion and paragraphs 2-7 of Appellant's Affidavit.

5) Each of these statements concern Appellant's current medical condition or financial condition. These matters are not contained in the Record on Appeal and are not evidence in this case.

6) Appellant is attempting to introduce new evidence into Record via a Motion for Expedited Oral Argument. Respondents contend this is improper.

7) Rule 240(c)(3), SCACR, indicates that “facts relied upon in support of the motion” that are not contained in the Record on Appeal shall be supported by “affidavits and other documents.” This rule allows **facts** which are not in the Record to be used in a motion. It does not allow for the introduction of new **evidence** into the Record through a motion.

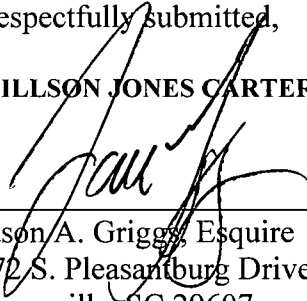
8) Appellant is attempting to introduce new evidence into the Record through his motion, which tends to make him a more sympathetic figure. Respondents assert that this is improper.

9) Respondents request that paragraphs 3-8 of Appellant’s Motion and paragraphs 2-7 of Appellant’s Affidavit be stricken from the Record. Additionally, Respondents request that Oral Argument remain scheduled for May.

WHEREFORE, Respondents CTR of the Carolinas, Inc., et. al., and Twin City Fire Insurance Company respectfully request that paragraphs 3-8 of Appellant’s Motion and paragraphs 2-7 of Appellant’s Affidavit be stricken from the Record. Additionally, Respondents request that Oral Argument remain scheduled for May.

Respectfully submitted,

WILLSON JONES CARTER & BAXLEY, P.A.



Jason A. Grigg, Esquire
872 S. Pleasantburg Drive
Greenville, SC 29607
Attorney for Respondents

February 20, 2015

RECEIVED
FEB 23 2015
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Case Tracking No. 2014-000225 (SCWCC No. 1023410)

MICHAEL W. DORITY,.....PETITIONER,

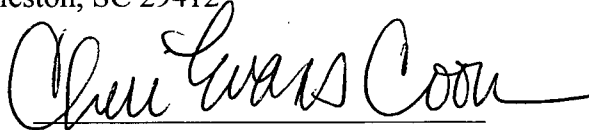
v.

CTR OF THE CAROLINAS, INC., ET. AL., EMPLOYER AND
TWIN CITY FIRE INSURANCE COMPANY,.....RESPONDENTS.

CERTIFICATE OF SERVICE

I, Cheri Evans Coon, do hereby certify that I am the Legal Assistant for Jason A. Griggs, Esquire, attorney for the defendants with **WILLSON JONES CARTER & BAXLEY, P.A.** in Greenville, South Carolina, and that on the 20th day of February, 2015, I mailed the foregoing **RETURN TO MOTION AND MEMORANDUM FOR EXPEDITED ORAL AGREEMENT** to the following by placing a copy thereof in the United States mail, first class, proper postage affixed thereto:

Jeffrey T. Eddy, Esquire
109 Wappoo Creek Drive, Suite 1-A
Charleston, SC 29412



Cheri Evans Coon, Legal Assistant to
Jason A. Griggs, Esquire
Willson Jones Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, South Carolina 29607
(864) 527-3275
Attorney for Respondents

RECEIVED

FEB 23 2015

SC Court of Appeals

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE RALEIGH ATLANTA

Jason A. Griggs
Direct (864) 527-3288
Fax (864) 235-6015
jagriggs@wjlaw.net

872 S. Pleasantburg Drive
Greenville, SC 29607
www.wjclaw.net

February 20, 2015

The Honorable Jenny Abbott Kittchings
South Carolina Court of Appeals
1015 Sumter Street
P.O. Box 11629
Columbia, SC 29211

Re: Michael W. Dority, Claimant, Appellant, v. CTR of the Carolinas, Inc., et al.,
Employer, and Twin City Fire Insurance Company, Carrier, Respondents.
Appellate Case No. 2014-000225

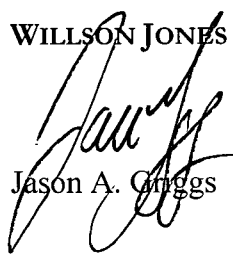
Dear Ms. Kittchings:

Enclosed for filing with the Court, please find an original and six (6) copies of Respondents **Return to Motion and Memorandum for Expedited Oral Argument** in the above-referenced case along with a Certificate of Service certifying service on counsel for the Appellants, Jeffrey T. Eddy.

Should you need any additional information, please do not hesitate to contact my office.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.


Jason A. Griggs

JAG/cec
Enclosures

cc: (w/encl) Mr. Jeffrey T. Eddy, Esquire
Ms. Janneke Boffemmyer (via e-mail)

RECEIVED

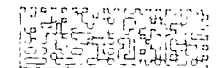
FEB 23 2015

SC Court of Appeals

02/20/2015
US POSTAGE

FIRST-CLASS MAIL

\$02.24⁰



ZIP 29607
041110210227

RECEIVED

FEB 23 2015

SC Court of Appeals

ccc

WILLSON JONES CARTER & BAXLEY, P.A.
ATTORNEYS AT LAW
872 S. PLEASANTBURG DRIVE
GREENVILLE, SC 29607

RECEIVED

FEB 23 2015

SC Court of Appeals

JENNY ABBOTT KITTINGS
SOUTH CAROLINA COURT OF APPEALS
1015 SUMTER STREET
P.O. BOX 11629
COLUMBIA, SC 29211

ccc

